

AMENDED IN ASSEMBLY MAY 17, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2338

Introduced by Assembly Members Chesbro and Beall

February 24, 2012

An act to amend Sections 4646.5 and 4868 of, and to add Section 4869 to, the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2338, as amended, Chesbro. Developmental services: Employment First Policy.

The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide support and services to individuals with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements.

Existing law requires the State Council on Developmental Disabilities to, among other responsibilities, form a standing Employment First Committee to identify strategies and recommend legislative, regulatory, and policy changes to increase integrated employment, as defined, self-employment, and microenterprises for persons with developmental disabilities, as specified.

This bill would define competitive employment, microenterprises, and self-employment for these purposes. This bill would require each regional center planning team, when developing an individual program plan for a transition age youth or working age adult, to consider a specified Employment First Policy. The bill would also require regional

centers to ensure that consumers, beginning at 16 years of age, and, where appropriate, other specified persons, are provided with information about the Employment First Policy, about options for integrated competitive employment, and about services and supports, including postsecondary education, available to enable the consumer to transition from school to work, and to achieve the outcomes of obtaining and maintaining integrated competitive employment. The bill would authorize the department to request information from regional centers on current and planned activities related to the Employment First Policy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4646.5 of the Welfare and Institutions
2 Code is amended to read:
3 4646.5. (a) The planning process for the individual program
4 plan described in Section 4646 shall include all of the following:
5 (1) Gathering information and conducting assessments to
6 determine the life goals, capabilities and strengths, preferences,
7 barriers, and concerns or problems of the person with
8 developmental disabilities. For children with developmental
9 disabilities, this process should include a review of the strengths,
10 preferences, and needs of the child and the family unit as a whole.
11 Assessments shall be conducted by qualified individuals and
12 performed in natural environments whenever possible. Information
13 shall be taken from the consumer, his or her parents and other
14 family members, his or her friends, advocates, authorized
15 representative, if applicable, providers of services and supports,
16 and other agencies. The assessment process shall reflect awareness
17 of, and sensitivity to, the lifestyle and cultural background of the
18 consumer and the family.
19 (2) A statement of goals, based on the needs, preferences, and
20 life choices of the individual with developmental disabilities, and
21 a statement of specific, time-limited objectives for implementing
22 the person's goals and addressing his or her needs. These objectives
23 shall be stated in terms that allow measurement of progress or
24 monitoring of service delivery. These goals and objectives should
25 maximize opportunities for the consumer to develop relationships,

1 be part of community life in the areas of community participation,
2 housing, work, school, and leisure, increase control over his or her
3 life, acquire increasingly positive roles in community life, and
4 develop competencies to help accomplish these goals.

5 (3) When developing individual program plans for children,
6 regional centers shall be guided by the principles, process, and
7 services and support parameters set forth in Section 4685.

8 (4) When developing an individual program plan for a transition
9 age youth or working age adult, the planning team shall consider
10 the Employment First Policy described in Chapter 14 (commencing
11 with Section 4868).

12 (5) A schedule of the type and amount of services and supports
13 to be purchased by the regional center or obtained from generic
14 agencies or other resources in order to achieve the individual
15 program plan goals and objectives, and identification of the
16 provider or providers of service responsible for attaining each
17 objective, including, but not limited to, vendors, contracted
18 providers, generic service agencies, and natural supports. The
19 individual program plan shall specify the approximate scheduled
20 start date for services and supports and shall contain timelines for
21 actions necessary to begin services and supports, including generic
22 services.

23 (6) When agreed to by the consumer, the parents, legally
24 appointed guardian, or authorized representative of a minor
25 consumer, or the legally appointed conservator of an adult
26 consumer or the authorized representative, including those
27 appointed pursuant to subdivision (d) of Section 4548, subdivision
28 (b) of Section 4701.6, and subdivision (e) of Section 4705, a review
29 of the general health status of the adult or child including a medical,
30 dental, and mental health needs shall be conducted. This review
31 shall include a discussion of current medications, any observed
32 side effects, and the date of the last review of the medication.
33 Service providers shall cooperate with the planning team to provide
34 any information necessary to complete the health status review. If
35 any concerns are noted during the review, referrals shall be made
36 to regional center clinicians or to the consumer's physician, as
37 appropriate. Documentation of health status and referrals shall be
38 made in the consumer's record by the service coordinator.

39 (7) (A) The development of a transportation access plan for a
40 consumer when all of the following conditions are met:

1 (i) The regional center is purchasing private, specialized
2 transportation services or services from a residential, day, or other
3 provider, excluding vouchered service providers, to transport the
4 consumer to and from day or work services.

5 (ii) The planning team has determined that a consumer's
6 community integration and participation could be safe and
7 enhanced through the use of public transportation services.

8 (iii) The planning team has determined that generic
9 transportation services are available and accessible.

10 (B) To maximize independence and community integration and
11 participation, the transportation access plan shall identify the
12 services and supports necessary to assist the consumer in accessing
13 public transportation and shall comply with Section 4648.35. These
14 services and supports may include, but are not limited to, mobility
15 training services and the use of transportation aides. Regional
16 centers are encouraged to coordinate with local public
17 transportation agencies.

18 (8) A schedule of regular periodic review and reevaluation to
19 ascertain that planned services have been provided, that objectives
20 have been fulfilled within the times specified, and that consumers
21 and families are satisfied with the individual program plan and its
22 implementation.

23 (b) For all active cases, individual program plans shall be
24 reviewed and modified by the planning team, through the process
25 described in Section 4646, as necessary, in response to the person's
26 achievement or changing needs, and no less often than once every
27 three years. If the consumer or, where appropriate, the consumer's
28 parents, legal guardian, authorized representative, or conservator
29 requests an individual program plan review, the individual program
30 shall be reviewed within 30 days after the request is submitted.

31 (c) (1) The department, with the participation of representatives
32 of a statewide consumer organization, the Association of Regional
33 Center Agencies, an organized labor organization representing
34 service coordination staff, and the Organization of Area Boards
35 shall prepare training material and a standard format and
36 instructions for the preparation of individual program plans, which
37 embodies an approach centered on the person and family.

38 (2) Each regional center shall use the training materials and
39 format prepared by the department pursuant to paragraph (1).

1 (3) The department shall biennially review a random sample of
2 individual program plans at each regional center to ensure that
3 these plans are being developed and modified in compliance with
4 Section 4646 and this section.

5 SEC. 2. ~~Section 4868 of the Welfare and Institutions Code is~~
6 ~~amended to read:~~

7 ~~4868. (a) The State Council on Developmental Disabilities~~
8 ~~shall form a standing Employment First Committee consisting of~~
9 ~~the following members:~~

10 ~~(1) One designee of each of the members of the state council~~
11 ~~specified in subparagraphs (B), (C), (D), (F), and (H) of paragraph~~
12 ~~(2) of subdivision (b) of Section 4521.~~

13 ~~(2) A member of the consumer advisory committee of the state~~
14 ~~council.~~

15 ~~(b) In carrying out the requirements of this section, the~~
16 ~~committee shall meet and consult, as appropriate, with other state~~
17 ~~and local agencies and organizations, including, but not limited~~
18 ~~to, the Employment Development Department, the Association of~~
19 ~~Regional Center Agencies, one or more supported employment~~
20 ~~provider organizations, an organized labor organization~~
21 ~~representing service coordination staff, and one or more consumer~~
22 ~~family member organizations.~~

23 ~~(c) The responsibilities of the committee shall include, but need~~
24 ~~not be limited to, all of the following:~~

25 ~~(1) Identifying the respective roles and responsibilities of state~~
26 ~~and local agencies in enhancing integrated and gainful employment~~
27 ~~opportunities for people with developmental disabilities.~~

28 ~~(2) Identifying strategies, best practices, and incentives for~~
29 ~~increasing integrated employment and gainful employment~~
30 ~~opportunities for people with developmental disabilities, including,~~
31 ~~but not limited to, ways to improve the transition planning process~~
32 ~~for students 14 years of age or older, and to develop partnerships~~
33 ~~with, and increase participation by, public and private employers~~
34 ~~and job developers.~~

35 ~~(3) Identifying existing sources of employment data and~~
36 ~~recommending goals for, and approaches to, measuring progress~~
37 ~~in increasing integrated employment and gainful employment of~~
38 ~~people with developmental disabilities.~~

39 ~~(4) Recommending legislative, regulatory, and policy changes~~
40 ~~for increasing the number of individuals with developmental~~

1 disabilities in integrated employment, self-employment, and
2 microenterprises and who earn wages at or above minimum wage,
3 including, but not limited to, recommendations for improving
4 transition planning and services for students with developmental
5 disabilities who are 14 years of age or older. This shall include,
6 but shall not be limited to, the development of a policy with the
7 intended outcome of significantly increasing the number of
8 individuals with developmental disabilities who engage in
9 integrated employment, self-employment, and microenterprises
10 and in the number of individuals who earn wages at or above
11 minimum wage. This proposed policy shall be in furtherance of
12 the intent of this division that services and supports be available
13 to enable persons with developmental disabilities to approximate
14 the pattern of everyday living available to people without
15 disabilities of the same age and that support their integration into
16 the mainstream life of the community, and that those services and
17 supports result in more independent, productive, and normal lives
18 for the persons served. The proposed policy shall not limit service
19 and support options otherwise available to consumers, or the rights
20 of consumers, or, where appropriate, parents, legal guardians, or
21 conservators to make choices in their own lives.

22 (d) For purposes of this chapter, the following definitions shall
23 apply:

24 (1) “Competitive employment” means work in the competitive
25 labor market that is performed on a full-time or part-time basis in
26 an integrated setting and for which an individual is compensated
27 at or above the minimum wage, but not less than the customary
28 wage and level of benefits paid by the employer for the same or
29 similar work performed by individuals who are not disabled.

30 (2) “Integrated employment” means “integrated work” as
31 defined in subdivision (o) of Section 4851.

32 (3) “Microenterprises” means small businesses owned by
33 individuals with developmental disabilities who have control and
34 responsibility for decisionmaking and overseeing of the business,
35 with accompanying business licenses, taxpayer identification
36 numbers other than social security numbers, and separate business
37 bank accounts. Microenterprises may be considered integrated
38 competitive employment.

39 (4) “Self-employment” means an employment setting in which
40 an individual works in a chosen occupation, for profit or fee, in

1 ~~his or her own small business, with control and responsibility for~~
2 ~~decisions affecting the conduct of the business.~~

3 ~~(e) The committee, by July 1, 2011, and annually thereafter,~~
4 ~~shall provide a report to the appropriate policy committees of the~~
5 ~~Legislature and to the Governor describing its work and~~
6 ~~recommendations. The report due by July 1, 2011, shall include~~
7 ~~the proposed policy described in paragraph (4) of subdivision (c).~~

8 *SEC. 2. Section 4868 of the Welfare and Institutions Code is*
9 *amended to read:*

10 4868. (a) The State Council on Developmental Disabilities
11 shall form a standing Employment First Committee consisting of
12 the following members:

13 (1) One designee of each of the members of the state council
14 specified in subparagraphs (B), (C), (D), (F), and (H) of paragraph
15 (2) of subdivision (b) of Section 4521.

16 (2) A member of the consumer advisory committee of the state
17 council.

18 (b) In carrying out the requirements of this section, the
19 committee shall meet and consult, as appropriate, with other state
20 and local agencies and organizations, including, but not limited
21 to, the Employment Development Department, the Association of
22 Regional Center Agencies, one or more supported employment
23 provider organizations, an organized labor organization
24 representing service coordination staff, and one or more consumer
25 family member organizations.

26 (c) The responsibilities of the committee shall include, but need
27 not be limited to, all of the following:

28 (1) Identifying the respective roles and responsibilities of state
29 and local agencies in enhancing integrated and gainful employment
30 opportunities for people with developmental disabilities.

31 (2) Identifying strategies, best practices, and incentives for
32 increasing integrated employment and gainful employment
33 opportunities for people with developmental disabilities, including,
34 but not limited to, ways to improve the transition planning process
35 for students 14 years of age or older, and to develop partnerships
36 with, and increase participation by, public and private employers
37 and job developers.

38 (3) Identifying existing sources of employment data and
39 recommending goals for, and approaches to measuring progress

1 in, increasing integrated employment and gainful employment of
2 people with developmental disabilities.

3 (4) Recommending legislative, regulatory, and policy changes
4 for increasing the number of individuals with developmental
5 disabilities in integrated employment, self-employment, and
6 microenterprises, and who earn wages at or above minimum wage,
7 including, but not limited to, recommendations for improving
8 transition planning and services for students with developmental
9 disabilities who are 14 years of age or older. This shall include,
10 but shall not be limited to, the development of ~~an Employment~~
11 ~~First Policy~~, *a policy with the intended outcome of which is a*
12 ~~significant increase in~~ *significantly increasing* the number of
13 individuals with developmental disabilities who engage in
14 integrated employment, self-employment, and microenterprises,
15 and in the number of individuals who earn wages at or above
16 minimum wage. This proposed policy shall be in furtherance of
17 the intent of this division that services and supports be available
18 to enable persons with developmental disabilities to approximate
19 the pattern of everyday living available to people without
20 disabilities of the same age and that support their integration into
21 the mainstream life of the community, and that those services and
22 supports result in more independent, productive, and normal lives
23 for the persons served. The proposed ~~Employment First Policy~~
24 *policy* shall not limit service and support options otherwise
25 available to consumers, or the rights of consumers, or, where
26 appropriate, parents, legal guardians, or conservators to make
27 choices in their own lives.

28 (d) For purposes of this chapter, ~~“integrated employment” shall~~
29 ~~have the same definition as “integrated work” as defined in~~
30 ~~subdivision (o) of Section 4851.~~ *the following definitions shall*
31 *apply:*

32 (1) *“Competitive employment” means work in the competitive*
33 *labor market that is performed on a full-time or part-time basis*
34 *in an integrated setting and for which an individual is compensated*
35 *at or above the minimum wage, but not less than the customary*
36 *wage and level of benefits paid by the employer for the same or*
37 *similar work performed by individuals who are not disabled.*

38 (2) *“Integrated employment” means “integrated work” as*
39 *defined in subdivision (o) of Section 4851.*

1 (3) “Microenterprises” means small businesses owned by
2 individuals with developmental disabilities who have control and
3 responsibility for decisionmaking and overseeing of the business,
4 with accompanying business licenses, taxpayer identification
5 numbers other than social security numbers, and separate business
6 bank accounts. Microenterprises may be considered integrated
7 competitive employment.

8 (4) “Self-employment” means an employment setting in which
9 an individual works in a chosen occupation, for profit or fee, in
10 his or her own small business, with control and responsibility for
11 decisions affecting the conduct of the business.

12 (e) The committee, by July 1, 2011, and annually thereafter,
13 shall provide a report to the appropriate policy committees of the
14 Legislature and to the Governor describing its work and
15 recommendations. The report due by July 1, 2011, shall include
16 the proposed ~~Employment First Policy~~ policy described in
17 paragraph (4) of subdivision (c).

18 SEC. 3. Section 4869 is added to the Welfare and Institutions
19 Code, to read:

20 4869. (a) (1) ~~It is the policy of the state that integrated,~~
21 ~~competitive employment is the priority outcome for working age~~
22 ~~individuals with developmental disabilities. In furtherance of the~~
23 ~~intent of this division to make services and supports available to~~
24 ~~enable persons with developmental disabilities to approximate the~~
25 ~~pattern of everyday living available to people without disabilities~~
26 ~~of the same age, to support the integration of persons with~~
27 ~~developmental disabilities into the mainstream life of the~~
28 ~~community, and to bring about more independent, productive, and~~
29 ~~normal lives for the persons served, it is the policy of the state that~~
30 ~~opportunities for integrated, competitive employment shall be~~
31 ~~given the highest priority for working age individuals with~~
32 ~~development disabilities, regardless of the severity of their~~
33 ~~disabilities. This policy shall be known as the Employment First~~
34 ~~Policy.~~

35 (2) ~~This policy is in furtherance of the intent of this division to~~
36 ~~make services and supports available to enable persons with~~
37 ~~developmental disabilities to approximate the pattern of everyday~~
38 ~~living available to people without disabilities of the same age, to~~
39 ~~support the integration of persons with developmental disabilities~~

1 into the mainstream life of the community, and to bring about more
2 independent, productive, and normal lives for the persons served.

3 (3)

4 (2) Implementation of the policy shall be consistent with, and
5 shall not infringe upon, the rights established pursuant to this
6 division, including the right of people with developmental
7 disabilities to make informed choices with respect to services and
8 supports through the individual program planning process.

9 (4)

10 (3) Integrated competitive employment is intended to be the
11 first option considered by planning teams for working age
12 individuals, but individuals may choose goals other than integrated
13 competitive employment.

14 (5)

15 (4) This chapter shall not be construed to expand the existing
16 entitlement to services for persons with developmental ~~services~~
17 *disabilities* described in this division.

18 (b) Regional centers shall ensure that consumers, beginning at
19 16 years of age, and, where appropriate, their parents, legal
20 guardians, or conservators, are provided with information, in a
21 language that the consumer and, as appropriate, the consumer's
22 representative understand, about the Employment First Policy,
23 about options for integrated competitive employment, and about
24 services and supports, including postsecondary education, available
25 to enable the consumer to transition from school to work, and to
26 achieve the outcomes of obtaining and maintaining integrated
27 competitive employment.

28 (c) The department may request information from regional
29 centers on current and planned activities related to the Employment
30 First Policy.